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DECISION



21232 Boyle

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-204960.2

DATE: March 23, 1982

MATTER OF: HCS, Inc.

DIGEST:

GAO dismisses a protest, as untimely filed under 4 C.F.R. § 21.2(a) (1981), because the protester filed the protest with GAO more than 10 working days after notice of the initial adverse action. The protester's appeal to the Secretary of the Department of Health and Human Services does not extend the time to file a subsequent protest with GAO.

HCS, Inc., protests the award of a contract to Systems Management Associates, Inc., under request for proposals (RFP) No. 271-81-4922 issued by the National Institute on Drug Abuse, Department of Health and Human Services (HHS), for the operation of the National Drug Abuse Center. We dismiss the protest since it is untimely under our Bid Protest Procedures.

By letter dated October 23, 1981, HCS protested to the procuring activity, contending that six specific violations of applicable procurement regulations and procedures rendered the award illegal. By letter dated November 18, 1981, the procuring activity denied the protest, responding point-by-point to the objections by HCS. By letter dated December 1, 1981, HCS appealed the initial adverse agency action to the Secretary of HHS. By letter dated February 9, 1982, received by HCS on March 3, 1982, the Secretary affirmed the denial of HCS's protest by the procuring activity.

By letter dated March 12, 1982, received here on the same date, HCS protested to our Office, raising essentially the same objections that were contained in its initial protest dated October 23, 1981.

Under our Bid protest procedures, if a protest is filed initially with the contracting agency, any subsequent protest to our Office must be filed within 10 working days of formal notification of initial adverse agency action. 4 C.F.R. § 21.2(a) (1981). Further, we have held that a protester's continued pursuit of its protest with the contracting agency, despite the initial rejection of its protest, does not extend the time or obviate the necessity for filing a protest with our Office within 10 working days of initial adverse agency action. See, e.g., BKC Incorporated, et al., B-198905, June 10, 1981, 81-1 CPD 474, and decisions cited therein.

Accordingly, since HCS's protest to our Office was not filed here within 10 working days after it received notice of the initial denial of its protest, HCS's protest is untimely and its various requests for relief will not be considered on the merits.

protest dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel